


COUNTY OF YORK

MEMORANDUM

DATE: August 3, 2006 (BOS Mtg. 8/15/06)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Application No. ZT-103-06, York County Planning Commission: Proposed Amendments to Section 24.1-407 – Accessory Apartments

Issue

This application, which has been sponsored by the Planning Commission, proposes amendments to Section 24.1-407, Standards for Accessory Apartments, of the Zoning Ordinance to expand the opportunities for authorization of accessory apartments as a matter of right.

Considerations

In March 2003, the Board of Supervisors amended the Zoning Ordinance text to modify the requirements and performance standards for accessory apartments. The amendments were based on recommendations from the Planning Commission that were intended to accomplish the following:

- a. Encourage attached accessory apartments;
- b. Discourage detached accessory apartments;
- c. Recognize that large-lot, rural settings can be more appropriate for larger accessory apartments and for detached accessory apartments; and
- d. Establish an absolute upper limit on the size of any accessory apartment.

These objectives were reflected in the requirements ultimately adopted by the Board which specify, among other things, that:

- Accessory apartments of up to 600 square feet or 25% of the floor area of the principal dwelling, whichever is less, and attached to the principal dwelling, are permitted as a matter of right in the RC, RR, R20 and R13 districts.
- Any attached accessory apartment in excess of 600 s.f. /25% but not exceeding 800 s.f. / 35% require a special use permit, except as noted below.
- Any detached accessory apartment requires a special use permit, except as noted below.

- On lots/parcels at least **2 times** the district minimum size in the RC or RR district (i.e., at least 10 acres in RC, 2 acres in RR) or at least **4 times** the district minimum size in the R20 district (i.e., 80,000 s.f. in R20), accessory apartments, either attached or detached, are permitted as a matter of right up to a maximum size of 800 s.f. or 35%, whichever is less.
- In addition, on properties meeting these district (RC, RR, or R20) and size requirements (2x or 4x the lot size), accessory apartments of up to an **absolute maximum** of 1,000 s.f. or 49%, whichever is less, may be authorized by special use permit

Several months ago the Planning Commission asked that staff look again at the recent history of accessory apartment Special Use Permit (SUP) cases to see if there are trends that might point to additional opportunities to streamline the process. In other words, if the track record indicates that requests sharing certain characteristics are approved routinely, would it be appropriate to allow proposals having those characteristics to be approved without SUP review?

Since the adoption of the revised standards, ten (10) applications for Special Use Permits to authorize detached accessory apartment have been processed and seven (9) of those have been approved. The following chart summarizes pertinent information concerning each of these applications:

Applicant	Zone	Lot Size	Apartment Size (s.f.)	Location	Action
Burcher	RR	40,510 s.f.	765	rural area	Approved
Pickett	R13	13,500 s.f.	692	Greenlands	Denied
Bateman	RR	34,850 s.f.	484	Paradise Point Rd.	Approved
Waters	RR	87,500 s.f.	648	Railway Rd.	Approved
Staples	RR	44,250 s.f.	704	Link Rd.	Approved
Rinehart	R13	48,790 s.f.	768	Sonshine Acres	Approved
Cunningham	RR	35,280 s.f.	515	Queens Lake	Approved
Barker	R20	40,510 s.f.	795	Brandywine	Approved
Saunders	RR	27,870 s.f.	386	Seaford Shores	Approved
Engbersen	R13	53,143 s.f.	620	Parchment Blvd.	Approved

Several observations can be made about the characteristics of these proposals:

- The mean apartment size (of those approved) was 632 square feet; the median size was 692 square feet;
- All were under the 800 s.f./35% of principal structure thresholds;
- All of the properties zoned RR were approved;
- Two of the RR-zoned properties exceeded the minimum lot size of the district; one

- of the properties was twice the minimum lot size;
- The property zoned R20 was twice the minimum lot size for the district;
- One of the properties zoned R13 was denied; the other two R13 properties that were approved were 3.6 and almost 4 times the minimum lot size;
- The R13 property that was denied was right at the minimum lot size for the district and was in a subdivision setting.

Based on these observations, and in the interest in recommending further adjustments to the accessory apartment standards to expand the matter-of-right opportunities, the Planning Commission's recommended text amendments would do the following:

- Expand the matter-of-right size limit for both attached and detached accessory apartments to 800 square feet or 35% of the primary residence floor area, whichever is less;
- Allow detached accessory apartments in the RC and RR districts as a matter-of-right if the property is at least as large as the minimum lot size for the district (i.e., 5 acres or 1-acre, respectively);
- Allow detached accessory apartments in the R20 District as a matter of right if the property is at least twice the required minimum lot size of 20,000 s.f. (i.e., lot would have to be at least 40,000 s.f. in size);
- Allow detached accessory apartments in the R13 District as a matter of right if the property is at least three (3) times the required minimum lot size of 13,500 square feet (i.e., lot would have to be at least 40,500 s.f. in size).

If these standards had been in place, the Waters, Staples, Rinehart, Barker and Engbersen applications would have been matter-of-right situations.

Please note that the Commission does not believe it would be appropriate to allow an accessory apartment as a matter of right on properties that are nonconforming as to lot size. Although the recent case history would indicate that such applications are likely to be approved (e.g., the Burcher, Bateman, Cunningham and Saunders applications involved properties that did not meet current minimum lot size requirements), the Commission believes it is appropriate to require the Special Use Permit review for any nonconforming lot situation.

Planning Commission Recommendation

The Planning Commission considered this application at its meeting on July 12, 2006. Subsequent to conducting a public hearing, at which there were no speakers, the Commission voted (6:0) to recommend approval of the proposed amendments.

County Administrator's Recommendation

The proposed amendments will provide matter-of-right opportunities for accessory apartments in those situations that have proven to be acceptable over the past three years of case history. Approval of these amendments would eliminate a 60-90 day waiting period for applicants. Given the case history and the record of discussion, there is no apparent need to require Special Use Permit review for cases meeting the noted criteria. Accordingly, I support the Planning Commission's proposal and recommend that the proposed amendments be approved through the adoption of proposed Ordinance No. 06-20.

Carter/3337

Attachments:

- Planning Commission Minutes – July 12, 2006 excerpt
- Proposed Ordinance No. 06-20